



ATLANTA

CINCINNATI

COLUMBUS

NEW YORK

CHICAGO

CLEVELAND

DAYTON

WASHINGTON, D.C.

August 10, 2022

VIA ECF

Hon. Vernon S. Broderick  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 415  
New York, New York 10007

APPLICATION GRANTED

SO ORDERED 

VERNON S. BRODERICK

U.S.D.J. 08/10/22

Re: *Spectrum Dynamics Medical Limited v. General Electric Company, et al.*,  
Case No.: 18-cv-11386 (VSB)

Dear Judge Broderick:

We represent Defendants in the above-referenced action. We write pursuant to Rule 5.B of Your Honor's Individual Rules & Practices in Civil Cases and the Order dated August 3, 2022 (Doc. 503) to respectfully request that transcript of the April 29, 2022 *Markman* hearing be filed on the public docket with redactions of information that the parties have designated Highly Confidential or Confidential under the parties' Stipulated Confidentiality and Protective Order (the "Protective Order") (Doc. 156). The parties jointly respectfully request that before the transcript is made publicly available, the court reporter be directed to redact the passages highlighted on pages 16, 19, 26-27, 32, and 54-55, as set forth in Exhibit 1 hereto.

The presumption of public access to judicial documents can be overcome if countervailing factors warrant confidentiality. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006); *see also Nixon v. Warner Commc'ns Inc.*, 435 U.S. 589, 598 (1978). Sealing of records may be justified to preserve "higher values," including the need to protect an entity from competitive injury. *Lugosch*, 435 F.3d at 124; *see also Tropical Sails Corp. v. Yext, Inc.*, No. 14-cv-7582, 2016 U.S. Dist. LEXIS 49029, at \*10-11 (S.D.N.Y. Apr. 12) (risk of "competitive injury is sufficiently serious to warrant protection" of proprietary business information). Consistent with this, courts routinely permit sealing and redaction of competitively sensitive proprietary business information or information subject to a claim of privilege. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Encyclopedia Brown Prods., Ltd. v. Home Box Office, Inc.*, 26 F. Supp. 2d 606, 614 (S.D.N.Y. 1998); *see also Nixon*, 435 U.S. at 598 (recognizing need to seal information that might "harm a litigant's competitive standing").

Here, the discussions in the transcript information that is assertedly competitively sensitive and proprietary information of one or both parties and, if disclosed, could pose a substantial risk of harm. This is the sort of sensitive information that courts consistently protect from disclosure. *See, e.g., Ferring B.V. v. Allergan, Inc.*, No. 12-cv-2650, 2017 U.S. Dist. LEXIS 150239, at \*16 (S.D.N.Y. Sep. 7) (sealing documents containing proprietary information); *Encyclopedia Brown*, 26 F. Supp. 2d at 612 (sealing documents reflecting sensitive trade secret information).

Jesse.Jenike-Godshalk@ThompsonHine.com Fax: 513.241.4771 Phone: 513.352.6702

THOMPSON HINE LLP  
ATTORNEYS AT LAW

312 Walnut Street, Suite 2000  
Cincinnati, Ohio 45202-4024

www.ThompsonHine.com  
O: 513.352.6700  
F: 513.241.4771



Page 2

The parties' request is narrowly tailored to protect highly confidential information and does not deprive the public of access to critical information. For these reasons, the parties' respectfully request that the Court permit the requested redactions in the transcript of the April 29, 2022 *Markman* hearing.

Very truly yours,

/s/ Jesse Jenike-Godshalk

THOMPSON HINE LLP

Marla R. Butler  
Two Alliance Center  
3560 Lenox Road NE, Suite 1600  
Atlanta, Georgia 30326  
Tel.: (404) 541-2900  
Fax: (404) 541-2905  
Marla.Butler@ThompsonHine.com

Jesse Jenike-Godshalk (*pro hac vice*)  
312 Walnut Street, Suite 2000  
Cincinnati, Ohio 45202  
Tel.: (513) 352-6700  
Fax: (513) 241-4771  
Jesse.Godshalk@ThompsonHine.com

Brian Lanciault  
335 Madison Avenue, 12th Floor  
New York, New York 10017  
Tel.: (212) 344-5680  
Fax: (212) 344-6101  
Brian.Lanciault@ThompsonHine.com

Jeffrey Metzcar  
Discovery Place  
10050 Innovation Drive  
Miamisburg, Ohio 45342  
Tel. (937) 443-6841  
Fax (937) 430-3781  
Jeff.Metzcar@thompsonhine.com

*Attorneys for Defendants  
General Electric Company, GE Healthcare,  
Inc., GE Medical Systems Israel Ltd., Jean-  
Paul Bouhnik, Sergio Steinfeld,  
Arie Eshco, and Nathan Hermony and for Non-  
Party Yaron Hefetz*

cc: All Counsel of Record via ECF  
encl.